

REMARKS

Claims 1-20 are pending in the present case. Claims 1 and 5-20 are rejected. Claims 2-4 are objected to. No new matter has been added.

CLAIM REJECTIONS

U.S.C. 112

Claims 8-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Amended Claim 8 recites:

For a plurality of products having demand data, a method for determining prices that maximize revenue for each of said products comprising:

- determining an initial price for each product by multiplying the cost of each product by a multiplier;
- determining additional prices that maximize revenue for each product;
- determining the total cost of said plurality of products;
- changing said multiplier when said total cost of said products is not equal to a budget; and

continuing to perform said determining an initial price, determining additional prices, determining the total cost, and changing said multiplier until said total cost of said products is near the amount of said budget.

Applicants assert that the Examiner has the burden of showing that the application is non-enabling. Applicants request that the Examiner provide sufficient reasons why the scope of Claim 8 is not adequately enabled by the description of the invention, provided in the specification. The Examiner has merely stated that “the problem with method 800 is that it does not describe how to use method 800 with respect to the demand curves for which only one additional price is found using the initial price p_0 that is, those demand curves for which method 100 is used.” Applicants respectfully assert that one of ordinary skill in the art understands what a demand curve is. Furthermore, Applicants

have amended Claim 8 to include "demand data" rather than demand curve. For
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this rational, Applicants believe that Claims 8-10 comply with the enablement requirement. As such, Applicants request the 112 rejection to Claims 8-10 be removed.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission leading to a gap between the steps. Claim 1 has been amended to include the limitation "determining position information associated with a first reference line and a second reference line." As such, Claim 1 is complete and Applicants respectfully request the 112 rejection to Claim 1 be removed.

Claim 5 is rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Applicants respectfully assert that the terms "geometric calculation" and "geometric error" are terms that are well known in the art. Furthermore, one of ordinary skill in the art is capable of performing "geometric calculations" and determining "geometric error."

For this rational, Applicants state that Claim 5 is not indefinite and Applicants request the 112 rejection to Claim 5 be removed.

Claims 6, 12, 14, 15 and 18 are rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly

claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Applicants emphasize that “determining the location of a reference line” is a technique well known in the art and that one of ordinary skill in the art is capable of determining the position of a reference line.

Furthermore, Applicants emphasize that “determining where a reference line intersects a vertical reference line” is a technique well known in the art and that one of ordinary skill in the art is capable of determining where a reference line intersects a vertical reference line.

Applicants assert that the terms and phrases that the Examiner purports to be indefinite are terms and phrases that are well known to persons of ordinary skill in the art. For this rational, Applicants respectfully request the 112 rejections to Claims 6, 12, 14, 15 and 18 be removed.

Claims 7 and 13 are rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

The Office Action cites that the phrase “first reference line” renders Claim 7 indefinite because the claim never fully defines where the first reference line is located. Applicants disagree because Claims 7 and 13 recite “first reference line and said second reference line extending through said demand curve at said first price.” This limitation, as claimed, provides location information for the first

reference line. For this rational, Claims 7 and 13 are not rendered indefinite. Applicants respectfully request the 112 rejection to Claims 7 and 13 be removed.

Claims 8 and 10 are rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and traverse the rejection for the following rational.

The office Action states that the step of “determining additional process that maximize revenue for each product” renders Claims 8 and 10 indefinite because the Claims do not state how those prices that maximize revenue are determined. Applicants assert that finding a price that maximizes profit is a technique that is well known by one of ordinary skill in the art. As such, Applicants do not believe Claims 8 and 10 to be indefinite. For this rational, Applicants request the 112 rejection to Claims 8 and 10 be removed.

Claim 9 is rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Applicants respectfully assert that the terms “geometric calculation” and “geometric error” are terms that are well known in the art. Furthermore, one of ordinary skill in the art is capable of performing “geometric calculations” and determining “geometric error.”

For this rational, Applicants state that Claim 9 is not indefinite and Applicants request the 112 rejection to Claim 9 be removed.

Claims 11, 16 and 17 are rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Applicants respectfully assert that the terms “geometric calculation” and “geometric error” are terms that are well known in the art. Furthermore, one of ordinary skill in the art is capable of performing “geometric calculations” and determining “geometric error.”

For this rational, Applicants state that Claims 11, 16 and 17 are not indefinite and Applicants request the 112 rejection to Claims 11, 16 and 17 be removed.

Claim 19 is rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

Claim 19 includes “said first reference line and said second reference line extending through said demand curve at said first price,” which provides location information for the first and second reference lines. As such, Applicants do not understand Claim 19 to be indefinite and Applicants request the 112 rejection to Claim 19 be removed.

Claim 20 is rejected under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants strongly disagree and respectfully traverse the rejection for the following rational.

As stated above, Applicants respectfully assert that the terms “geometric calculation” and geometric error” are terms that are well known in the art. Furthermore, one of ordinary skill in the art is capable of performing “geometric calculations” and determining “geometric error.”

For this rational, Claim 20 is not indefinite and Applicants request the 112 rejection to Claim 20 be removed.

U.S.C. 101

Claims 1, 5 and 8-15 are directed to statutory subject matter under 35 U.S.C. 101. The language of 35 U.S.C. 101 clearly states “Whoever invents or discovers **any new and useful** process, machine, manufacture, or composition of matter.... may obtain a patent thereof...” (emphasis added). There is no requirement that the claims be limited by language within the technological arts in 35 U.S.C. 101. The Supreme Court has acknowledged that Congress, through legislative history, intended statutory subject matter to “include everything under the sun that is made by man.” See Diamond v. Chakrabarty, 447 U.S. 303, 309; 206 USPQ 193, 197 (1980). Further, the Supreme Court has specifically identified three categories of non-statutory subject matter: laws of nature, natural phenomena, and abstract ideas. See Diamond v. Diehr, 450 U.S. 175; 209 USPQ 1 (1981).

It is submitted that Claims 1, 5 and 8-15 are not directed towards laws of nature, natural phenomena, and abstract ideas. Since the Office Action does not state that Claims 1, 5, and 8-15 are not directed towards laws of nature, natural phenomena, and abstract ideas, Claims 1, 5, and 8-15 are directed towards statutory subject matter because they produce a tangible and useful result.

Independent Claim 1 results a price that maximizes revenue. A price is a tangible and useful result. Independent Claim 8 results in prices that maximize revenue for each of the products. Prices are tangible and useful results. As such, Applicants request the 101 rejections of Claims 1, 5, and 8-15 be removed.

ALLOWBLE SUBJECT MATTER

Applicants wish to thank the Examiner for indicating allowable subject matter. Applicants have overcome the rejections to Independent Claim 1. As such, Applicants request the allowance of Claims 1-4 for the rational presented above and in light of the allowable subject matter.

CONCLUSION

In light of the above remarks, Applicant respectfully requests reconsideration of the rejected Claims.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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